



Legislative Bulletin.....May 1, 2008

Contents:

Concurring in the Senate Amendments to H.R. 5715— Ensuring Continued Access to Student Loans Act of 2008

H.R. 5715, the Ensuring Continued Access to Student Loans Act of 2008, passed the House on April 17, 2008 by a vote of 383 to 27. Today, the House will be voting on concurring in the Senate amendments to H.R. 5715. An RSC document released on the House passed version of H.R. 5715 can be found [here](#).

This document contains information on the Senate amendments to H.R. 5715, which passed the Senate by unanimous consent on April 30, 2008.

Order of Business: H.R. 5715 is scheduled for consideration on Thursday, May 1, 2008, under a motion to suspend the rules and pass the bill.

Summary of Senate Amendments:

The following are the key changes made to H.R. 5715 by Senate amendments:

- The amendments would ensure that parents who are affected by the current mortgage crunch can still access PLUS loans by clarifying the time period for mortgage delinquency, also ensuring that such delinquency does not disqualify a parent from access to a PLUS loan. The bill expands the extenuating circumstances to include 180 days' mortgage and/or medical bill payment delinquency, but requires that the individual not be more than 89 days delinquent on any other payment. Under current law, a lender cannot make a PLUS loan to a borrower with an "adverse credit history." The regulations define an "adverse credit history" to mean that a borrower is 90 days delinquent on the repayment of a debt, unless the lender determines that extenuating circumstances exist.
- The Senate amendments sunset the Secretary's authority to designate entire institutions for the "lender of last resort" program at the end of the 2008-2009 school year, making this a temporary "relief" effort.
- The amendments ensure that the guaranty agencies and lenders operating under the "lender of last resort" program are subject to the same ethics rules with respect to providing incentives to schools to participate as other FFEL lenders.

- Requires guaranty agencies and lenders acting as lenders of last resort to report on loans made through such program.
- Requires reporting on the costs of the lender of last resort program as compared to the current loan programs.
- Suspends the Master Calendar requirements and negotiated rule-making process for the loan changes in the bill so that these effects can take place quickly enough to effect the upcoming school year.
- Provides an additional \$4,000 in new eligibility for students who meet the modified Academic Competitiveness and Science, Mathematics and Research for Transformation (SMART) grants eligibility criteria, expanding access to these additional grant funds (that takes money directly from resources that could be used to expand Federal Pell Grants) to students enrolled in two-year and four-year degree-granting programs, as well as certificate programs offered by these institutions. The bill also providing access to the grants for a fifth year of undergraduate education at the degree-granting institutions.
- Directs all savings (\$400 million) generated by the bill to Academic Competitiveness Grants (ACG) and the SMART Scholarship for Service Program (through the Department of Defense). These programs are intended to provide grants to low-income students.
- Incorporates provisions included in the House passed HEA reauthorization bill including:
 - An amendment by Rep. Rob Bishop (R-UT) to ensure that the states, not the Secretary of Education, make the determination about what constitutes a rigorous curriculum.
 - Ensuring that students who participate in dual enrollment programs are able to receive ACG Grants.
 - Ensuring that the same students who receive a Pell Grant are also eligible for an ACG or SMART grant.
 - Permitting students to obtain a SMART grant if they are studying a critical foreign language.
 - Permitting part-time students and students pursuing certificate programs to obtain a grant.
 - Permitting students pursuing programs in math and science to receive SMART Grants even if they attend an institution that does not allow students to declare a major.

Conservative Concerns Still Remaining:

Among those mentioned in the legislative bulletin released during House consideration of H.R. 5715, some conservatives may have a few additional concerns.

As you may know, the 90/10 provision—a provision which would be affected due to the increased loan limits authorized in H.R. 5715—has yet to be addressed. The 90/10 provision requires proprietary schools to receive at least 10% of their revenues from non-Title IV sources. Under current law, any school which violates the 90/10 rule loses their eligibility for student aid under Title IV. With the increased loan limits authorized by H.R. 5715, many proprietary schools will end up receiving more than 90% of their revenues from Title IV funds. This leaves proprietary schools with the option to either increase tuition to offset the increased loan limits, stop targeting low-income students who primarily utilize the loans, or risk losing eligibility of federal Title IV funding, jeopardizing their business model. Some conservatives may be concerned that increasing loan limits without addressing the impact on the 90/10 rule is unnecessarily discriminatory toward proprietary schools, and will likely encourage schools to raise tuition.

During the mark-up of H.R. 5715 on April 9, 2008, a colloquy took place between Representative Rob Andrews, Chairman Miller and Ranking Member McKeon, in which they discussed the impact of the loan increases on proprietary institutional eligibility under the 90/10 Rule. Representative Andrews was recognized and expressed concerns with the impact of this legislation on proprietary institutions, who, given all of the new Title IV resources available to students, would quite likely find themselves out of compliance with the 90/10 Rule. Ranking Member McKeon similarly argued, suggesting that it put institutions in the untenable situation where they would have to either raise tuition (to maintain a ratio of 10% of revenues from non-Title IV sources) or face loss of eligibility simply because of the population served. Chairman Miller pledged to address this issue, but it has yet to be resolved.

Some conservatives may be concerned that absent his strong commitment to follow through on his promises to address the 90/10 concerns as part of the Higher Education Authorization (HEA) consideration, Chairman Miller and congressional Democrats will place at risk the future viability of proprietary schools that educate millions of students nationwide with this legislation.

Furthermore, the Senate amendments would direct any savings (approximately \$400 million according to CBO scores) into two grant programs which seem to be arbitrarily selected. Some conservatives may feel the bill is biased towards institutions of higher education as defined under Section 101(a) of the HEA by doing so.

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